

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Aaron Cole	Team: Squad #1	CCRB Case #: 201606627	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input checked="" type="checkbox"/> Injury
Incident Date(s) Sunday, 07/31/2016 6:30 PM	Location of Incident: Northeast corner of Nostrand Avenue and Lafayette Avenue	Precinct: 79	18 Mo. SOL 1/31/2018	EO SOL 1/31/2018	
Date/Time CV Reported Mon, 08/01/2016 7:36 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Mon, 08/01/2016 7:36 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. POM Randy Sanchez	05340	956231	079 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Charles Rivera	03221	956202	079 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Randy Sanchez	Force: Police Officer Randy Sanchez used physical force against § 87(2)(b)	

Case Summary

§ 87(2)(b) filed this complaint via the CCRB's Call Processing System on August 1, 2016. This case was originally assigned to Inv. Andrew Bailyn and reassigned to the undersigned on December 28, 2016.

On July 31, 2016, at approximately 6:30 p.m., § 87(2)(b) was driving his livery cab, a black Toyota Camry sedan, home after finishing his shift. While driving southbound on Nostrand Avenue in Brooklyn, § 87(2)(b) passed a marked RMP stopped at the red light on the southeast corner of Nostrand Avenue and Dekalb Avenue. As § 87(2)(b) drove past the intersection, the officers in the RMP, PO Randy Sanchez and PO Charles Rivera of the 79th Precinct pulled him over.

PO Sanchez approached on the driver's side of the sedan. PO Rivera approached § 87(2)(b)'s sedan on the passenger's side.

PO Sanchez requested § 87(2)(b)'s driver's license and registration. § 87(2)(b) asked why he was being pulled over and PO Sanchez repeated the request for § 87(2)(b) to provide his license and registration. § 87(2)(b) repeated his question of why he was pulled over. PO Sanchez opened § 87(2)(b)'s driver's side door, and removed § 87(2)(b) from his vehicle.

PO Sanchez then punched § 87(2)(b) several times in the head (**Allegation A**). § 87(2)(b) then allegedly became dizzy and fell to the ground onto his stomach.

§ 87(2)(b) was handcuffed, arrested, and transported to the 79th Precinct stationhouse. § 87(2)(b) was charged with resisting arrest, obstruction of governmental administration, illegal windshield tints, and illegally signaling from a parked position. § 87(2)(b) was later transported to § 87(2)(b) Hospital for medical treatment.

There is no video footage for the incident.

Mediation, Civil and Criminal Histories

- § 87(2)(b) has no known conviction history [01 Board Review]. § 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
§ 87(2)(b)
- A FOIL request to the NYC Comptroller's Office inquiring if § 87(2)(b) filed a Notice of Claim was sent on November 28, 2016, and was returned on December 1, 2016, with negative results [02 Board Review].
- This case was unsuitable for mediation because § 87(2)(b) was arrested and processed.

Civilian and Officer CCRB Histories

- This is the first CCRB complaint filed by § 87(2)(b) [03 Board Review].
- This is the third CCRB complaint filed against PO Sanchez during his two year tenure with no allegation substantiated against him. Complaint #201600920 features an allegation of physical force in which PO Rivera allegedly dragged/pulled the complainant. The allegation was closed as unfounded. Complaint #201603620 also

features an allegation of physical force, in which PO Rivera pointed his gun at a civilian, struck the civilian with an asp, and pushed/shoved/threw the civilian. The allegation was closed as complainant uncooperative.

Potential Issues

- The investigation was unable to obtain video footage for the following reasons:
 - The Dunkin Donuts at 573 Lafayette Avenue, across the street from the incident, did not have surveillance cameras.
 - Julies Management at 257 Nostrand Avenue did not have cameras facing in the direction of the incident.
 - Mukta Hardware at 249 Nostrand Avenue only had surveillance cameras on a live feed.
 - George, the owner of 265 Nostrand Avenue, was initially unresponsive and did not allow field team investigators to attempt to procure the footage until after the footage data had expired.

Allegations not pleaded

- Abuse: A vehicle stop allegation is not being pled against either officer since § 87(2)(b) was charged with illegally tinted windows, and for failure to signal, the reasons cited by the officers and arrest report as the basis for the stop. Any complaint amounts to an arrest dispute.

Findings and Recommendations

Allegation A –Force: Police Officer Randy Sanchez used physical force against § 87(2)(b)

§ 87(2)(b) testified [04 Board Review] that PO Sanchez ordered him twice to produce his license and registration, as he requested a reason for the stop, before he began to look for them. § 87(2)(b) subsequently reached in his glove compartment to search for them. Without warning, PO Sanchez pulled § 87(2)(b) out of his taxi by opening the taxi door, placing a handcuff on § 87(2)(b)'s left wrist, and pulling him out by the left arm. Once out of the taxi, § 87(2)(b) stated that he was placed with his stomach resting against the vehicle, and at no time was resisting. § 87(2)(b) turned his back to PO Sanchez and faced his vehicle, intending to demonstrate to PO Sanchez that he was willing to be compliant. § 87(2)(b) did not remember if his right hand was open or clenched in a fist. PO Sanchez then punched § 87(2)(b) in the right and left sides of his head four to five times. § 87(2)(b) became dizzy, and fell upon one knee, then fell to the ground, landing on his stomach and hitting his head on the cement. As § 87(2)(b) lay with his stomach against the ground, he was handcuffed. § 87(2)(b) stated that he sustained swelling and knots to both sides of his head. § 87(2)(b), § 87(2)(g)

The Prehospital Care Report provided by the FDNY shows that § 87(2)(b) stated that he lost consciousness. The report also revealed that § 87(2)(b) possessed small lumps on his head and that he was physically incapable of signing [05 Board Review]. The report does not specify the location of § 87(2)(b)'s injuries located on his head. No injuries to § 87(2)(b)'s midsection or any other area of the body were reported.

The triage assessment from § 87(2)(b) reveal that § 87(2)(b) stated that he was punched in the face and passed out. He was assessed with swelling to the forehead and a loss of consciousness. The Emergency Department Provider Note reveals that § 87(2)(b) stated that he had suffered head trauma but did not lose consciousness. The results from a CT scan shows that § 87(2)(b) suffered a minor degree of facial soft tissue swelling, but no acute fractures of the face were found. § 87(2)(b) was diagnosed as having atypical facial pain and was given ibuprofen for the pain. No injuries to § 87(2)(b)'s midsection were reported or documented. The medical records specifically stated that § 87(2)(b) did not suffer from ribcage tenderness [06 Board Review].

The Medical Treatment of Prisoner Report shows that CT scans of § 87(2)(b)'s head were negative for signs of facial fracture. § 87(2)(b) was given Motrin for the facial trauma. The Command Log entry for § 87(2)(b) states that he suffered from minor bruising. § 87(2)(b)'s arrest photo does not display any obvious injury or swelling other than a possible small bruise to the top middle of his forehead [07 Board Review].

PO Sanchez stated [08 Board Review] that he gave several orders to § 87(2)(b) to lower all of the tinted windows since he was unable to see inside. § 87(2)(b) continually refused, but eventually lowered only the front driver's and passenger's side windows. PO Sanchez also stated that he gave multiple orders for § 87(2)(b) to provide his license and registration. § 87(2)(b) responded by repeatedly questioning why he needed to provide the information and gave no indication that he was attempting to comply. PO Sanchez warned § 87(2)(b) that failure to provide his license and registration would result in an arrest. § 87(2)(b) still refused and PO Sanchez informed him that he was under arrest. PO Sanchez opened the driver's side door and attempted to pull § 87(2)(b) out of the vehicle by taking hold of his left arm. § 87(2)(b) resisted by grabbing the left arm rest of the front passenger seat with his right hand. PO Sanchez overcame § 87(2)(b)'s resistance and pulled him out of the vehicle. § 87(2)(b) stood upright, with his body half-turned towards PO Sanchez, so that he was neither facing PO Sanchez directly nor fully turning his back to PO Sanchez. § 87(2)(b)'s right hand was balled into a fist, bent at the elbow and raised at chest level, as if cocked to throw a punch. Fearing for his safety, PO Sanchez punched § 87(2)(b) several times on the upper body, although PO Sanchez could not recall exactly how many times he punched § 87(2)(b) or what specific part of § 87(2)(b)'s upper body was struck. However, PO Sanchez was sure that he did not punch § 87(2)(b) on the head. PO Sanchez was unsure if the left handcuff was attached to § 87(2)(b)'s left arm at this time. PO Sanchez administered a forcible takedown of § 87(2)(b) by pulling downwards on his left arm and possibly his shirt, as § 87(2)(b) continued to flail his arms and did not lose consciousness. PO Sanchez's statement was consistent with the arrest report that he prepared, which stated that § 87(2)(b) balled his fist in an aggressive manner [09 Board Review].

PO Rivera corroborated that § 87(2)(b) refused several requests to lower his tinted windows and only eventually lowered the front windows. § 87(2)(b) also refused several orders to provide his license and registration to PO Sanchez. PO Rivera stated that after § 87(2)(b) was pulled out of the vehicle by PO Sanchez, § 87(2)(b) faced PO Sanchez and had his right hand in a closed fist. § 87(2)(b)'s right arm was cocked as if ready to throw a punch. PO Rivera observed this from the opposite side of the vehicle. PO Rivera also stated that § 87(2)(b) may

not have been raising his fist with the intention to punch PO Sanchez, but rather doing so inadvertently as he rose to his feet. PO Sanchez then punched § 87(2)(b) one or two times, although PO Rivera did not see which part of § 87(2)(b)'s body was struck or which hand PO Sanchez used to punch § 87(2)(b). § 87(2)(b) did not lose consciousness or fall to the ground on his own. Immediately thereafter, PO Sanchez brought § 87(2)(b) to the ground. § 87(2)(b) did not hit his head on the ground [10 Board Review].

Patrol Guide Procedure 221-01, states that MOS will use only the reasonable force necessary to gain control or custody of the subject [11 Board Review].

It is undisputed that PO Sanchez punched § 87(2)(b) several times after PO Sanchez brought § 87(2)(b) out of the vehicle. § 87(2)(b), § 87(2)(g)

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[Redacted text block]

Squad: 1

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date